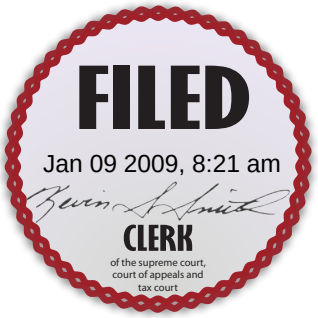

ATTORNEY FOR APPELLANT:

KIMBERLY A. JACKSON
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

TIFFANY N. ROMINE
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

DWAYNE SPARKMAN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 57A05-0806-CR-347
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE NOBLE CIRCUIT COURT
The Honorable G. David Laur, Judge
Cause No. 57C01-0711-FB-035

January 9, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BROWN, Judge

Dwayne Sparkman appeals his sentence for two counts of dealing in methamphetamine as class B felonies.[1] Sparkman raises one issue, which we revise and restate as whether Sparkman's sentence is inappropriate in light of the nature of the offense and the character of the offender.

The relevant facts follow. On October 3, 2005, Sparkman delivered methamphetamine to another individual in a parking lot in Kendallville, Indiana. On October 6, 2005, Sparkman again delivered methamphetamine to a person in Kendallville.

On November 20, 2007, the State charged Sparkman with two counts of dealing methamphetamine as class B felonies. On April 3, 2008, Sparkman pleaded guilty as charged. At the sentencing hearing, Sparkman's attorney argued that Sparkman was trying to support his habit and that the drug deal involved Sparkman's family member who was a confidential informant. The trial court noted Sparkman's "lengthy prior record reflecting substance abuse addiction" and the fact that Sparkman admitted guilt. Appellant's Appendix at 8. The trial court sentenced Sparkman to twelve years on each count with eight years executed in the Indiana Department of Correction and four years suspended to probation. The trial court ordered the sentences to be served concurrently.

[1] Ind. Code § 35-48-4-1.1 (Supp. 2006).

The issue is whether Sparkman's sentence is inappropriate in light of the nature of the offense and the character of the offender.[2] Ind. Appellate Rule 7(B) provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). Sparkman asks this court to impose concurrent advisory sentences of ten years imprisonment with four years suspended to probation.

Our review of the nature of the offense reveals that Sparkman twice delivered methamphetamine to an individual. Our review of the character of the offender reveals that Sparkman pleaded guilty without a plea agreement four months after being charged. Sparkman argues that he became addicted to methamphetamine after a series of personal tragedies beginning in 2001, including the loss of his job, a divorce, and his son's suicide. However, the State points out that Sparkman "was involved in criminal activity long before these events occurred." Appellee's Brief at 4.

Sparkman has been arrested twenty times as an adult. In 1992, Sparkman was charged with dealing in marijuana as a class C felony and pleaded guilty to dealing in marijuana as a class D felony. In 1996, Sparkman was convicted of two counts of

[2] Sparkman argues that none of his prior convictions were nearly as serious as the present offense. To the extent that Sparkman suggests that the trial court abused its discretion in sentencing him by giving his criminal history too much weight, we cannot review the weight given to an aggravating factor for abuse of discretion. See Anglemyer v. State, 868 N.E.2d 482, 491 (Ind. 2007) (holding that the relative weight or value assignable to aggravating and mitigating factors properly found is not subject to review for abuse of discretion), clarified on reh'g, 875 N.E.2d 218 (Ind. 2007).

criminal conversion as class A misdemeanors. In 1998, Sparkman was convicted of resisting law enforcement as a class A misdemeanor. In 2001, Sparkman was convicted of three counts of operating while suspended. In 2003, Sparkman committed battery as a class A misdemeanor. Sparkman was sentenced to probation and violated his probation. In 2003, Sparkman was convicted of invasion of privacy as a class A misdemeanor. In 2006, Sparkman pleaded guilty to non-support of a dependent child as a class D felony. In 2007, Sparkman was charged with burglary as a class C felony, theft as a class D felony, and resisting law enforcement as a class A misdemeanor. These charges were pending at the time of the presentence investigation and were dismissed at the change of plea hearing in the instant case. In 2007, Sparkman was charged with operating while intoxicated as a class A misdemeanor and driving while suspended as a class A misdemeanor. Sparkman pleaded guilty to operating while intoxicated as a class A misdemeanor.

After due consideration of the trial court's decision, we cannot say that Sparkman's concurrent sentences of twelve years with four years suspended for two counts of dealing methamphetamine as class B felonies are inappropriate in light of the nature of the offense and the character of the offender. See, e.g., Field v. State, 843 N.E.2d 1008, 1012-1013 (Ind. Ct. App. 2006) (concluding that the defendant's sentence of sixteen years for conspiracy to commit dealing in a schedule II controlled substance as a class B felony was not inappropriate).

For the foregoing reasons, we affirm Sparkman's sentence for two counts of dealing in methamphetamine as class B felonies.

Affirmed.

ROBB, J. and CRONE, J. concur